IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

(Attorney Docket № 14184US02)

In the Application of:	)
	)
Ed H. Frank	) **Electronically Filed on 16-NOV-2009**
	)
Serial No. 10/658,142	)
	)
Filed: September 9, 2003	)
	)
For: METHOD AND SYSTEM FOR LOCATION	)
BASED CONFIGURATION OF A WIRELESS	)
ACCESS POINT (WAP) AND AN ACCESS	)
DEVICE IN A HYBRID WIRED/ WIRELESS	)
NETWORK	)
	)
Examiner: Jung H. Park	)
	)
Group Art Unit: 2419	)
	)
Confirmation No. 5401	)

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Applicant requests review of the final rejection in the above-identified application, stated in the final Office Action mailed on 08/25/2009 ("Final Office Action") with a period of reply through 11/25/2009. The Applicant also requests review of the arguments stated on page 2 of the Advisory Office Action mailed on 11/04/2009 ("Advisory Office Action"). No amendments are being filed with this request.

This request is being filed with a Notice of Appeal. The review is being requested for the reasons stated on the attached sheets.

REMARKS

I.   The Proposed Combination of Moelard and Wang Does Not Render Claims 1-9, 11-19, 21-29, 31 and 32 Unpatentable

A.   Independent Claims 1, 11 and 21

With regard to the rejection of independent claim 1 under 35 U.S.C. § 103(a), the Applicant submits that the combination of Moelard and Wang does not disclose or suggest at least the limitation of "identifying a location of a network device within the hybrid wired/wireless network, the network device being movable within the hybrid wired/wireless network," as recited by the Applicant in independent claim 1.

The Final Office Action states the following:

Regarding claim 1, Moelard discloses a method for providing location based configuration in a hybrid wired/wireless network, the method comprising:

- identifying a location of a network device (identifying the location of the mobile wireless station (MWS), see 30 fig.7 and col.2, ln.56-59) within the hybrid wired/wireless network (fig.7), the network device being movable within the hybrid wired/wireless network (mobile wireless station, see 30 fig.7);

- determining configuration information (switch MWS to BS2 for handover, see 216 fig.11) corresponding to the determined location of the network device (identifying the location of the mobile wireless station, see 30 fig.7 and col.2, ln.56-59); and

- communicating the determined configuration information to the network device (request and response regarding to the location of MWS, see 218-212 fig.11) for providing location based configuration of the network device (switching the MWS to BS2, see 224 fig .11).

Moelard discloses that MSW decides to handover communication from a BS1 to BS2 as described in col.2, ln.58-60, but silent on the added limitation "determining, outside of the network device, configuration information for the network device." However, Wang discloses the handoff method based on the intra-switch mobility or inter-switch mobility and the switch, outside of the mobile network device, determines if mobile mobility is intra or inter switch (see fig.4, fig.6, 108 fig.9A, and col.8, ln.42-45). That is, the switch, outside of the network device, determines configuration information of hand-over for the mobile network device, the configuration information corresponding to the determined location of the network device. Therefore, it would have been obvious to

one of ordinary skill in the art at the time of applicant's invention to apply the handoff method based on the intra-switch mobility or inter-switch taught by Wang into the handover method of Moelard in order to decide if MWS's mobility is intra or inter switch within a different network configuration having the switch is connected to a plurality of base stations (Wang, col.8, ln.42-45).

See Final Office Action at pages 2-3. The Final Office Action relies on col. 2, lines 56-59 of Moelard, which simply discloses that each base station may maintain a dynamic filtering database with locations of the mobile terminal **in relation to the base station. In other words, Moelard determines whether the mobile terminal is within the coverage area of the base station.** However, **Moelard does not determine the specific location of the mobile terminal, and Moelard does not disclose that finding the coverage area of the base station is equivalent to identifying a location of the mobile device, or that the location of the base station is used in any way to identify the specific location of the mobile device.** There is simply no determining of the location of the mobile device within the network. Wang does not overcome the above deficiencies of Moelard.

Furthermore with regard to the rejection of independent claim 1 under 35 U.S.C. § 103(a), the Applicant submits that the combination of Moelard and Wang does not disclose or suggest at least the limitation of "determining, outside of said network device, configuration information for said network device, said configuration information corresponding to said determined location of said network device," as recited by the Applicant in independent claim 1. The Final Office Action relies for support on Fig. 11 (step 216) of Moelard, which illustrates a flowchart of the operation of the mobile wireless station during a hand-over procedure. Initially, the Applicant points out that <u>**making the handover decision (step 216 in Fig. 11; switching the MWS to BS2) has nothing to do with determining configuration information for the MWS. The Examiner has not provided any argument or citation establishing that making a handover decision is, somehow, equivalent to determining configuration information.**</u> <u>***Obviously, a mobile terminal has to be configured and operating, in order for it to make a handover decision.***</u> <u>**Moelard, therefore, is distinguished based on this ground alone.**</u>

Even if we assume, arguendo, that making the handover decision is somehow equivalent to determining configuration information (which it is not), the Examiner's argument is still deficient. More specifically, Moelard discloses that the handover decision is, in fact, made <u>by the MWS itself, not outside of the MWS</u> (See Moelard at col. 6, lines 32-34). In this regard, <u>it is not possible, under Moelard, for such handover decision (equated by the Examiner to Applicant's "determining …configuration information") to be made outside of the MWS</u>, as recited in Applicant's claim 1. The Examiner has conceded, in the above citation, that Moelard does not disclose "determining, outside of the network device, configuration information for the network device." The Examiner then relies for support on fig.4, fig.6, fig.9A, and col.8, ln.42-45 of Wang.

Initially, the Applicant points out that Wang discloses two types of handoff – intra-switch (the old and new base stations are both connected to the same switch) and inter-switch (the old and new base stations are each connected to separate switches). Intra- and inter-switch types of handoff are discussed in greater detail in col. 5, line 41 – col. 8, line 15 of Wang. Even though both types of handoff differ in how the handoff path between the mobile terminal (MT) and the new base station is set up, both intra- and inter-switch types of handoff have similar features. For example, **in both intra- and inter-switch types of handoff, the MT initiates the handoff by issuing two messages – a "location message" (containing the location of the new base station) and a "connection message" (containing the virtual channel set-up parameters and virtual channel handoff connections).** In this regard, Wang's MT issues the "connection message" for purposes of setting up the virtual channel and initiating the handoff sequence using the virtual channel. *See* Wang at col. 8, lines 30-45. **Even though Wang's switch (connected to the original base station) determines whether inter- or intra-switch type of handoff applies (as stated in the citation used by the Examiner - col. 8, lines 42-45), the fact remains that the handoff has already been initiated by virtue of the MT communicating the "location" and "connection" messages.** This is further supported by Wang's claims 1 and 3, which are disclosed in col. 10, lines 18-67. **Therefore, Wang does not overcome the deficiencies of Moelard and does not disclose "determining, outside of the network device, configuration information for the network device."**

Therefore, the Applicant maintains that the combination of Moelard and Wang does not disclose or suggest at least the limitation of "determining, outside of said network device, configuration information for said network device, said configuration information corresponding to said determined location of said network device," as recited by the Applicant in independent claim 1.

Furthermore with regard to the rejection of independent claim 1 under 35 U.S.C. § 103(a), the Applicant submits that the combination of Moelard and Wang does not disclose or suggest at least the limitation of "communicating said determined configuration information to said network device for providing location based configuration of said network device," as recited by the Applicant in independent claim 1. The Examiner, again, relies on the flowchart of Fig. 11. As already explained above, all the decisions regarding the handover process are made within the MWS, not outside of the MWS. The Examiner has already equated the "determined configuration information" to the determination made in step 216. However, **such determination is made within the MWS and it cannot be communicated to the MWS**, as alleged by the Examiner.

Accordingly, the proposed combination of Moelard and Wang does not render independent claim 1 unpatentable, and a *prima facie* case of obviousness has not been established. The Applicant submits that claim 1 is allowable. Independent claims 11 and 21 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 11 and 21 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1. The Applicant also maintains all remaining arguments regarding

allowability of the dependent claims stated in pages 18-19 of the October 22, 2009 response.

In general, the Final Office Action makes various statements regarding claims 1-32 and the cited reference that are now moot in light of the above. Thus, the Applicant will not address such statements at the present time. However, the Applicant expressly reserves the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

II.   Conclusion

The Applicant respectfully submits that claims 1-32 of the present application should be in condition for allowance at least for the reasons discussed above and request that the outstanding rejections be reconsidered and withdrawn. The Commissioner is authorized to charge any necessary fees or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

Date: 16-NOV-2009

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